

Jan Reimers
President



July 17, 1998

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Ms. Magalie Roman Salas, Secretary
Federal communications Commission
Room 222
1919 M Street, NW
Washington, D.C. 20554

RE: In the Matter of Access Charge Reform for Incumbent
Local Exchange Carriers Subject to Rate-of-Return
Regulation, CC Docket No. 98-77

Dear Ms. Roman Salas:

Enclosed herewith for filing with the Commission are the original and sixteen copies of the Comments of ICORE, Inc. in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purpose and remitting same to bearer.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jan Reimers".

Enclosures

cc: Competitive Pricing Division, Common Carrier Bureau (2)
International Transcription Service (1)

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many small rural
these Comments in the

distance, including access

to these companies,

adopted for the price cap LECs simply don't fit. In fact, these rate structures may so misfit the smaller LECs that severe harm will occur.

I. THE FCC'S PROPOSALS ARE UNLAWFUL

The FCC's major cost assumption underlying access charge reform, as proposed in the *Notice*, that rate-of-return LECs incur costs in the same manner as price cap LECs is false. Small and rural LECs do not have the customer density that price cap LECs have, which forces small LECs to incur much greater investments and expenses to serve an identical number of customers. The FCC's access charge reform proposal will lead to subscriber line charges (SLC) increases that could well violate Section 245(b) of the Telecommunications Act of 1996 by increasing the price of local service for rural customers beyond what is comparable for urban customers. In addition, imposition of presubscribed interexchange carrier charges (PICCs) could further exacerbate the risk to universal service in rural areas and could allow some IXC's to use LEC networks without paying reasonable rates for such usage. Access charge reform, as proposed, will shift more costs to originating access, which, in turn, will make rural LECs even more vulnerable to cream-skimming competitors. The imposition of the same complex rate structures as are now used by price cap LECs will create unreasonable and unfair regulatory burdens on small LECs.

II. A SLC INCREASE TO \$9.00 ON NON-PRIMARY RESIDENTIAL AND MULTI LINE BUSINESS LINES WILL REDUCE THE REVENUES OF MANY SMALL. RURAL LECs

The Commission proposes to apply the same SLC and PICC rate structures and ceilings for non-primary residential and multi-line business lines that it previously adopted for price cap

LECs,² to rate-of-return LECs.³ It asks for “comment on the applicability of the rate structure modifications adopted for price cap LECs to rate-of -return.”⁴

The relevant arguments here do not involve economic theories of cost causation, or the delicate interrelationships of SLCs, PICCs, and transport interconnection charges (TICs), or debates over traffic-sensitivity versus non-traffic-sensitivity. Very simply, in rural America, a SLC charge of \$9.00, even phased in over time, will cause customers to disconnect one or more of their affected lines. They will either discontinue service altogether, or obtain secondary lines from a competitive local exchange carrier (CLEC) to avoid the \$9.00 SLC.

Either way, the incumbent LEC loses every bit of revenue generated by that line - - the existing SLC, local service fees, access charges, Universal Service Fund (USF) and all miscellaneous fees. Those small rural LECs with relatively few non-primary residential and multi-line business lines will lose lesser amounts of revenue. Others, with one or two large multi-line businesses, will be at very serious risk.

At any rate, the \$9.00 SLC creates a form of “uneconomic bypass” - - customers are driven to buy service from CLECs just to avoid the substantial flat rate, non-discretionary charges imposed by the FCC on the incumbent LEC.

In an increasingly competitive world, the Commission should not micro-manage the access rate structure process. Rather, it should set minimums and maximums, or broad ranges, within which LECs would have pricing flexibility. Per minute access rates don’t necessarily

²NPRM, ¶ 26-31.

³Id., ¶ 35.

⁴Id., ¶ 36.

have to be forced toward zero, and SLC charges toward \$9.00, in rural America. Market conditions, rather than the Government, should determine the optional mix.

For small, rural incumbent LECs, competition without pricing flexibility spells disaster.

III. THE PROPOSED TRANSFER OF LINE-SIDE PORT REVENUE REQUIREMENTS FROM THE LOCAL SWITCHING CATEGORY TO COMMON LINE WILL PUT AT RISK THE TRAFFIC SENSITIVE ACCESS REVENUE REQUIREMENTS OF SMALL, RURAL LECs

The Commission proposes “to require rate-of-return LECs to reassign all costs for line-side ports from the local switching category to the common line category,” where such costs “would then be recovered through the rate structure adopted in response to our proposals in Section II.B, above.”⁵

The transfer of line-side port revenue requirements from local switching to common line at the Part 69 level, with the costs to be recovered primarily through higher SLC charges, will put these revenues at serious risk for small, rural LECs.

Many of the smallest LECs do not have enough non-primary residential and multi-line business lines to recover these costs through increased SLC charges, even if the LEC were to continue to provide these relatively few lines. But as pointed out in Section II above, substantially higher SLC charges will cause customers to disconnect their incumbent LEC-provided lines, leaving the LEC with an even greater revenue shortfall.

IV. THE PROPOSED REAPPORTIONMENT OF GENERAL SUPPORT FACILITIES (GSF) COSTS TO BILLING AND COLLECTION WILL ARBITRARILY REDUCE THE REVENUES OF MANY SMALL, RURAL LECs.

⁵NPRM, ¶ 54.

The Commission has “tentatively” concluded “that we should modify section 69.307 of our rules for rate-of-return LECs to allocate GSF costs related to billing and collection services to the billing and collection category,” and asks, logically, for “comment on how many rate-of-return LECs use general purpose computers to provide billing and collection services.”⁶

The answer, at least for the smaller, rural LECs is not very many. While we have never taken an industry-wide survey, most of ICORE’s small LEC clients contract with outside service bureaus to perform their billing and collection functions. A few others that perform the work internally have the appropriate computer equipment directly assigned to the billing and collection category. The vast majority of small, rural LECs use their general purpose computers only for accounting, plant and related functions.

For ICORE’s clients, then - - and we don’t believe our small, rural LECs are at all unique in the way they handle billing and collection-- any allocation of GSF to the billing and collection category is totally inappropriate. Their general purpose computers are not used for billing and collection.

Our analyses indicate that the Commission’s proposed reapportionment will shift significant dollar amounts from access to billing and collection for ICORE’s cost settlement clients. One 1200 access line company, for instance, will lose over \$10,000 annually, or more than 3%, of its access-related revenue requirement. Another will lose over 1.5%, and a third will see a reduction of \$77,121, or about 2.4%. While these results may not seem all that dramatic,

⁶NPRM, ¶ 82.

they are substantial when one considers that there is absolutely no justification for even a \$1.00 reduction, given that there is no use of their general purpose computers for billing and collection.

And the “shift” of revenue requirements from access to billing and collection truly is a revenue reduction, since most small LECs have fixed contractual arrangements with IXC for billing and collection services. Thus, once the revenue requirement is removed from access, there is no way for these LECs to recover it.

The Commission should either exempt all of the smallest LECs - - those under 50,000 access lines - - from its proposed reapportionment rules, or enact a certification process that would grant an exemption to individual rate-of-return LECs that certify that their general purpose computers are not used to perform billing and collection functions.

V. NONE OF THE PROPOSED CHANGES SHOULD BE MADE BEFORE JULY 1, 2001

If the Commission adopts any of the proposed changes, none should be implemented before July 1, 2001, coincident with USF and other changes for rate-of-return LECs. The rate structure changes will require extensive studies, as in the proposal for “rate-of-return LECs to conduct cost studies to determine the geographically-averaged portion of local switching costs that is attributable to the line-side ports and to the trunk-side ports, to be filed with the tariffs implementing these changes.”⁷ NECA will also be involved in these studies, and will need adequate time to gather and process data, and develop the necessary pool procedures.

Since the proposed changes primarily involve rates and rate structures, any that are adopted should be made effective July 1, 2001 coincident with the annual tariff filing.

⁷NPRM, ¶ 54.

VI. THE FCC SHOULD SUSPEND THE PROPOSED ACCESS CHARGE REFORM AND OPEN A BROAD INQUIRY INTO RATE DEREGULATION OF RURAL LECs

Instead of proceeding with this rulemaking proceeding, the FCC should release a notice of inquiry into the rate deregulation of small LECs, which should include, *inter alia*, the pricing of access services. The record in the current proceeding should be incorporated into the new inquiry. In addition to access charge reform, the FCC should consider (1) the type of rate regulation, if any, that is appropriate for small LECs; (2) the impact of increased Internet traffic, including Internet telephony, on rural LECs and their customers; (3) the level of pricing flexibility necessary and appropriate for small LECs to avoid unfair “cherry picking” by competitors; and (4) the impact of regulatory changes on universal service. The inquiry on universal service aspects should include the further definition of what are comparable rates for comparable service between rural and urban customers.

The *Notice* goes no further than raising a few questions about the costs and benefits of traditional regulation of small LECs. It seems unreasonable to propose a more complex access rate structure for small LECs unless and until the benefits and costs of such changes are addressed. Both Chairman Kennard and Commissioner Powell have recently asked the more fundamental question of should small LECs even be rate regulated.⁸ That question should be

⁸ See W. Kennard, Remarks, “Keeping America Connected,” to the Organization for the Promotion and Advancement of Small Telephone Companies, Fort Lauderdale, FL, January 12, 1998; and M. Powell, Remarks, “Working Toward Independents’ Day: Mid-Size Carriers as the Special Forces of Deregulation,” to Independent Telephone Pioneer Association (National Chapter), Washington, D.C., May 7, 1998.

addressed before the FCC burdens small LECs with even more complex price regulation rules,
not after new rules are written.

Respectfully submitted,

ICORE, Inc.

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